2866.

SUPREME COURT OF THE UNITED STATES.

No. 273.

THE UNITED STATES, APPELLANTS,

vs.

JACOB BRANDEGEE'S WIDOW AND HEIRS.

APPEAL FROM THE DISTRICT COURT, UNITED STATES, FOR LOUISIANA.

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GIDEON, Printer.

UNITED STATES OF AMERICA,
Eastern district of Louisiana.

United States district court, sitting in chancery.

JACOB BRANDEGEE
vs. } No. 43.
The UNITED STATES.

Land cause.

Be it remembered, that heretofore, at the May term, A. D. 1846, of the said court, to wit, on the fifteenth day of June, 1846, Jacob Brandegee, plaintiff in the above cause, came by his solicitor C. Roselius, esq., into the clerk's office, and filed his petition, which is in the words and figures following, to wit:

To the honorable Theodore H. McCaleb, judge of the United States district court, in and for the district of Louisiana:

The petition of Jacob Brandegee, residing in the city of New Orleans, State of Louisiana, respectfully represents, that in pursuance of an order of Don Manuel Gayoso de Lemos, governor general of the provinces of Louisiana and West Florida, Don Carlos Trudeau, the royal surveyor, did, on or about the 15th November, 1798, deliver possession to Dona Maria Manetta Laveau Trudeau, of a tract of land containing five hundred superficial arpents, situated in the district of New Feliciana, about two miles and a half distant from the river Mississippi, bounded on the north by land of Don Joseph Molere; on the south by land of Don Vicente Pintado; on the east by land of Jeremiah Kelsey, and on the west by the banks of the rivulet Arrena, or Sand creek. The boundaries are parallel, and run north 89 degrees east, without allowing for the variation of the compass, which variation is 8 degrees 15 minutes towards the northeast; that said tract of land had previously been surveyed by Don Vicente Pintado, deputy surveyor of the provinces of Louisiana and West Florida; and your petitioner further represents, that afterwards, to wit, on or about the 12th December, 1798, the said Don Manuel Gayoso de Lemos, governor general of the provinces of Louisiana and West Florida, made a regular grant and concession of said tract of land to the said Dona Maria Manette Laveau Trudeau; all of which, together with other necessary particulars, will more fully appear from the annexed documents, marked A No. 1, and A No. 2, made part of this petition; and your petitioner further represents, that on or about the 31st August, 1821, said Maria Manetta Laveau Trudeau, wife of Josiah E. Ker, duly assisted and authorized by her husband, sold and transferred the before described tract of land to your petitioner, by a notarial deed of sale, passed before G. R. Stringer, notary public, as appears by the copy of said deed, hereunto annexed, marked A No. 3; and your petitioner further represents, that the metes and

bounds of said tract of land, its location and description, will more particularly appear by reference to the documents and plan already referred to in this petition; that his said titles were duly presented to, and proved before, the board of land commissioners, whose decision was adverse to the claim of your petitioner; that the whole of said tract of land, or the greater part thereof, has either been sold by the United States, or confirmed to actual settlers; that he cannot and does not contest the titles of those who are in possession of said tract of land under the sales and confirmations aforesaid.

Your petitioner, therefore, respectfully prays that the United States district attorney for the district of Louisiana, be cited to appear and answer this petition; that the validity of the title of your petitioner to the aforesaid tract of land be inquired into and decided by the court; that after due proceedings had, judgment be rendered in favor of your petitioner, decreeing and recognising that the title of your petitioner to the said tract of land is good and valid; and that your petitioner is entitled to enter a like quantity of land in lieu of that which has been sold or confirmed as aforesaid according, to the provisions of the act of Congress in such case made and provided; and your petitioner prays for all such other and further aid, relief, and remedy as the nature of his case may require, and as to law and equity may appertain.

And as in duty bound he will ever pray, &c.

(Signed) C. ROSELIUS,
For petitioner.

Jacob Brandegee being duly sworn deposes and says, that all the facts and allegations in the foregoing petition contained are correct and true, according to the best of his knowledge and belief.

(Signed) JACOB BRANDEGEE.

Sworn to and subscribed before me, this 16th day of June, 1846.

(Signed) N. R. JENNINGS, *Clerk.*

And thereupon, at the same term, and on the same day, the following citation was issued out of the clerk's office, to wit:

United States district court, sitting in and for the district of Louisiana, to the marshal for the district of Lousiana, or his lawful deputy, greeting.

You are hereby commanded to summon S. W. Downs, U. S. attorney, to appear before the honorable judge of the district court of the United States, sitting in and for the district of Louisiana, at a district court to be holden at New Orleans, on the first Monday of July, 1846, then and there to answer a petition in chancery, filed against the United States, wherein Jacob Brandegee is petitioner.

Herein fail not, and have you then and there this writ, with your endorsement thereon, how you have executed the same.

Mem. The defendant is to enter an appearance in the above cause in the clerk's office on or before the first Monday of July, 1846, otherwise the petition may be taken pro confesso.

Witness the honorable T. H. McCaleb, judge, this seventeenth day of June, New Orleans, 1846, and 70th year of American independence.

[SEAL.] (Signed) L. E. SIMONDS,
Deputy Clerk.

Marshal's return on the foregoing citation.

Received this 17th day of June, 1846, and on the same day served copies of the within citation, plaintiff's petition and documents annexed, on the within named S. W. Downs, esq., United States attorney, in the manner following, to wit, by leaving the same at said attorney's office, with A. Perrilliat, a clerk in said office, over the age of 14 years, said attorney being absent at the time.

Returned 17th June, 1846.

WM. F. WAGNER,
U. S. Marshal.

(Signed) J. H. RINEHART,
Deputy U. S. Marshal.

And further, at the same term, to wit, on the 10th day of November, A. D. 1846, the following answer was filed of record in the clerk's office:

JACOB BRANDEGEE
vs.
THE UNITED STATES.

In the district court of the United States, for the district of Louisiana.

The defendants now come, and, for answer, deny all and singular the facts and allegations in plaintiffs' petition contained.

Wherefore they pray that the said petition may be dismissed at plaintiffs' costs,

(Signed) THOMAS J. DURANT, *Attorney.*

And afterwards, at the February term, to wit, on the 16th day of March, A. D. 1849, the following entry was made of record in this case on the minutes of said court:

JACOB BRANDEGEE
vs.
THE UNITED STATES. } No. 43.

This cause having been called up for trial, Alfred Hennen, esquire, suggested to the court that the complainant therein is now deceased; wherefore, it is ordered that the same be continued.

And be it further remembered, that at the same term, to wit, on the 7th day of May, A. D. 1849, the widow, in community and heirs of Jacob Brandegee, came, by their solicitor, C. Roselius, esq., into the clerk's office, and filed their petition or bill of revivor, which is in the words following, to wit:

To the honorable the Judge of the United States district court, for the eastern district of Louisiana.

The petition of Mrs. Jeannette Caroline Chastant, widow in community of Jacob Brandegee, and natural tutrix of her minor children, namely, Odile Madeline Brandegee, Camillus John Brandegee, Stephanie Brandegee, of Marie Henriette Brandegee, and of Caroline Clotilde Brandegee, wife of Henry Loyd, duly assisted and authorized in this behalf.

Respectfully represents, that a suit was instituted in this honorable court by the late Jacob Brandegee in his lifetime, against the United States of America, under an act of Congress, authorizing the institution of said suit for the recognition of the title to a tract of land, &c.; that your petitioners are the beneficiary heirs and legal representatives of said Jacob Brandegee, who has died since the institution of said suit.

Wherefore your petitioners respectfully pray that said suit may be revived in the names of your petitioners, and that they may be made parties plaintiff in the same, and permitted to prosecute said suit; and that the district attorney of the United States, for the eastern district of Louisiana, may be notified of the filing of this petition, and ordered to show cause, if any he have, why the prayer of your petitioners should not be granted; and they pray that judgment may be rendered in their favor, as prayed for in their original petition; and they will ever pray, &c., &c.

(Signed) C. ROSELIUS, *Solicitor.*

And thereupon, at the same term, and on the same day, the following citation was issued out of the clerk's office, to wit:

United States of America. The President of the United States, to the marshal for the eastern district of Louisiana, greeting:

You are hereby commanded to summon Thomas J. Durant, esq., United States district attorney, to appear before the honorable the Judge of the district [court] of the United States of America for said district, at a district court to be holden on Monday, the 21st day of May, 1849, then and there to answer a petition of revival in chancery, filed against the United States, wherein Jeannette Caroline Chastant, widow of Jacob Brandegee, et al., are complainants, and the United States defendants, then and there to show cause, if any there be, why the prayer of said petitioners should not be granted.

Herein fail not, and have you then and there this writ, with your endorsement thereon how you have executed the same.

Witness the honorable Theo. H. McCaleb, judge of the district court of the United States of America, this the seventh day of May, in the year of our Lord one thousand eight hundred and forty-nine, and the 73d year of American independence.

[SEAL.]

(Signed) ROBT. M. LUSHER, *Dp'y Clk.*

Marshal's return on the foregoing.

Received 7th May, 1849, and on the same day served copy of citation and petition annexed on Thos. J. Durant, esq., United States district attorney, by handing the same to him in person at New Orleans, and returned same day.

(Signed) N. W. BUTLER,
Dp'y U. S. Marshal.

And further, at the same term, to wit, on the 10th day of May, A. D. 1849, the following "answer to bill of revivor" was filed of record in the clerk's office:

UNITED STATES OF AMERICA,
Eastern district of Louisiana, ss.

To the honorable Theodore H. McCaleb, judge of the district court of the United States, for the eastern district of Louisiana.

The answer of Thomas J. Durant, attorney of the United States, for the eastern district of Louisiana, to the bill of revivor and amended bill of Mistress Jeannett Caroline Chastant, complainant.

The attorney of the United States aforesaid, now and at all times hereafter, saving and reserving to himself and to the United States all manner of benefit and advantage of exception to the many errors and insufficiencies in the complainant's said bill of revivor and amended bill contained, for answer thereunto, or unto so much or such parts thereof as he is advised is material for him to make answer unto, answers and says, that he is a stranger to the several matters and things in the said bill of revivor inquired after and alleged; but the attorney of the United States aforesaid submits that the said suit, and the proceedings had therein, described in complainant's bill of revivor, may stand and be revived against the United States.

Wherefore the attorney aforesaid prays to be hence dismissed with costs.

(Signed) THOMAS J. DURANT,
Att'y U. S., for east. district, La.

And afterwards, at the May term, to wit, on the 30th day of May, A. D. 1849, the following entry was made of record in this case on the minutes of said court:

JACOB BRANDEGEE
vs. } No. 43.
The UNITED STATES.

This cause having been called up for hearing, in furtherance of the general order entered May 21st, and the plaintiff not appearing to prosecute it, it is thereupon ordered, adjudged, and decreed, that said cause be dismissed with costs, and judgment entered up for defendants.

And further, at the same term, to wit, on the 8th day of June, A. D. 1849, the following entry was made of record on the minutes of said court:

Widow and heirs of JACOB BRANDEGEE
vs.
The UNITED STATES. } No. 43.

This cause was this day, on motion of Christian Roselius, esquire, solicitor for the complainants, with the consent of the attorney of the United States, reinstated on the docket, when the hearing of the same was proceeded with on the petition and answer and exhibits of record; after which the case was submitted to the court.

And be it remembered, that the exhibits of record this day offered in evidence by the plaintiffs are the following:

1°. *Document A No.* 1.

Being the original survey and grant on which plaintiff's claim is founded; said document being in the figures and words following, to wit:

[For map see original.]

DN. CARLOS TRUDEAU,
Agrimensor real y particular de la provincia de la Louisiana, &c.

Certifico, aver dado possession, á Dona Maria Manetta Laveau Trudeau, de un terreno de quinientos arpanes planos de superficie, medidos con la percha de la ciudad de Paris de dies y ocho pies de rey de largo, medida agraria en esta provincia; cuyo terreno situados en el distrito de la Na. Feliciana, a como dos millas y media de distancia de rio Mississippi, linda á la parte del norte con tierra de Don Joseph Molere, al sur con tierra de Dn. Vicente Pintado, al este con el nombo. Jeremias Kelsey, y al este con la orilla del arroyo de la Arrena; las limitas son paralelos dirigidos al norte ochenta y nueve grados; este sin attender a la variacion de la brusula, (variando,) este de ocho grados quinze minutas al nordeste; en aquellos limitos fueran marcados para linderos, los arboles, y mojones figurados en el plano siendo el apeo practicado en virtud del permiso verbal de su Sa. el Sen. Don Manl. Gayoso de Lemos, govr. genl., &c., y para que todo lo porferido conste doy la presenta certisn. con el plano figurativo ql. acompaña formados en confirmidad de las diligencias practicadas por el señr. ajudante agrimr. Don Vicente Pintado, segun su relacion del dia nueve de Octubre, del corriente año; de todo lo que doy fe, Noviembre quinze, de mil setecienta noventa y ocho años.

(Signed,) CARLOS TRUDEAU, *Ag. rl.*

Don Manuel Gayoso de Lemos, brigadier de los rs. extos, gobernador general, vice patrono real de las provincias de la Luisiana y Florida Occidental, é inspector de las tropas veteranas y milicias de ellas, &a.

Vistas las antecedentes diligencias practicadas par el agrimensor de esta provincia, Don Carlos Trudeau, sobre la posesion que ha dado á

Da. Maria Maneta Laveau Trudeau, de la cantidad quinientos arpanes de tierra de superficie, situados en el distrito de la Nueva Feliciana, á como dos millas y media del rio Mississippi, lindando al norte con tierras de Don Joseph Mollere, al sur con las de Dn. Vicente Pintado, al este de las de Jeremias Kelsey, y al oeste con la orilla del arroyo de la Arena, como lo demuestra el plano figurativo que antecede; y reconociendo estar reglado al orden de agrimensura, y a las concesiones de los antedichos circunvecinos sin que á estos se les cause perjuicio alguno, ni que lo hayan reclamado, y si bien consentido, segun lo justifica su asistencia a otras operaciones aprobando las como las aprobamos; veando de la facultad que el rey nos tiene concedida, otorgamos en su real nombre á la sus otra Da. Maria Maneta Laveau Trudeau, los referidos quinientos arpanes de tierra de superficie, para que como suyo propios desponga de ellos y los usufrute, arreglandose á las mencionadas diligencias, y observando las condiciones prevenidas por el reglamento de asunto.

Damos el presente firmado de nuestro mano, sellado con el sello de nuestras armas, y refrendado por el infrascrito comisario de guerra, honorario secretario por S. M. de este gobierno, en la Nueva Orleans, á doce de Diciembre, de mil setecientos noventa y ocho.

[SEAL.]

(Signed,) MANUEL GAYOSO DE LEMOS.

Por mando. de su sria.

(Signed,) ANDRES LOPEZ ARMESTO.

Regdo.

Document A No. 2, being a translation of document A No. 1.

[For figurative plan see Doc. A No. 1.]]

I, Don Carlos Trudeau, surveyor royal and particular for the province of Louisiana, &c., do hereby certify, to have delivered possession to Dona Maria Manetta Laveau Trudeau, of a tract of land of five hundred superficial acres, measured with the perch of the city of Paris, of eighteen feet long, which is the land measure adopted in this province. The said tract of land is situated in the district of New Feliciana, about two miles and a half distant from the river Mississippi, bounded on the north by land of Don Joseph Molere, on the south by land of Don Vicente Pintado, on the east by land of the named Jeremiah Kelsey, and on the west by the banks of the rivulet Arrena. The boundaries are parallel and run north eighty-nine degrees east, without allowance for variation of the compass, (which variation is eight degrees fifteen minutes towards northeast.) In the above limits were marked as the boundary lines the trees and objects mentioned on the plan. This survey was effected by virtue of a verbal permission of his excellency Don Manuel Gayoso de Lemos, governor general, &c.; and in faith

whereof I give this present certificate, with the figurative plan accompanying it, in conformity with the surveys made by the deputy surveyor, Don Vicente Pintado, according to his report of the 9th October of the current year; all of which I certify, this 15th November, in the year 1798.

(Signed,) CARLOS TRUDEAU,
Royal surveyor.

Don Manuel Gayoso de Lemos, brigadier of the royal armies, governor general, royal vice patron of the provinces of Louisiana and West Florida, and inspector of the veteran troops and the militia of the same, &c., &c., &c.

Considering the preceding acts had by the surveyor of this province, Don Carlos Trudeau, in relation to the possession which he has given to Dona Maria Manetta Laveau Trudeau, of the quantity of five hundred superficial acres of land, situated in the district of New Feliciana, about two miles and a half from the river Mississippi, and bounded on the north with lands of Don Joseph Molere, on the south by those of Don Vicente Pintado, on the east by those of Jeremiah Kelsey, and on the west by the rivulet Arrena, in conformity with the figurative plan which precedes; and recognising the same in conformity to the order of survey and the aforesaid concessions adjoining it, without causing them any prejudice or giving rise to any reclamation, but, on the contrary, with their consent, as is justified by their assistance at the aforesaid operations, approving them as we do hereby approve them; availing ourselves of the faculty which the King has given us, we grant in his royal name to the aforesaid Dona Maria Manetta Laveau Trudeau the aforesaid five hundred superficial acres of land, that she may use and dispose of them as her own property, in conformity with the aforesaid acts, and observing the conditions prescribed in the regulations touching this subject.

In testimony whereof we grant these presents, signed with our hand and sealed with the seal of our arms, and registered by the undersigned honorary commissary of war, his Majesty's secretary of this government, at New Orleans, the 12th December, 1798.

(Signed) MANUEL GAYOSO DE LEMOS.

By order of his Excellency.

(Signed) ANDREAS LOPEZ ARMESTA.

Registered.

3o. *Document A No.* 3, *being a sale of land, by M. M. L. Trudeau, grantee, to Jacob Brandegee.*

STATE OF LOUISIANA, *city of New Orleans.*

Be it known that this day, before me, Greenbury Ridgely Stringer, notary public in and for the city of New Orleans, duly commissioned, personally came and appeared Madame Marie Manette Laveau Trudeau, wife of Doctor Josias C. Kerr, of this city, and with her the said

Josias C. Kerr, aiding and authorizing his said wife in the execution of these presents; the said Josias and Marie Manette declared that, for and in consideration of the sum of eighteen hundred dollars, cash to them paid in presence of me, notary, by Jacob Brandegee, of this city, merchant, the receipt whereof they do hereby acknowledge; she, the said Marie Manette, with the advice and consent of her said husband, does, by these presents, grant, bargain, sell, transfer, and convey, unto the said Jacob Brandegee, his heirs and assigns, forever, (the said party being also present and accepting,) a certain tract of land, situated in the parish of Feliciana, in this State, containing five hundred arpens, more or less; which tract was granted to her, the said Marie Manette Laveau Trudeau, by the Spanish government of the province of Louisiana, by patent, dated the twelfth day of December, 1798, signed by the then governor, Don Manuel Gayoso de Lemos, to which patent there is annexed a figurative plan of said tract and a certified survey thereof by the late Charles Trudeau, deceased, then surveyor of the said province; the said tract being described in said plan as two miles and a half distant from the river Mississippi, bounded on the north by land granted to Joseph Molere; on the south by land granted to Vincente Pintado; on the east by land of Jeremiah Kelsey; and on the west by the river Arrena; said plan, survey, and patent being delivered in presence of me, notary, to the said purchaser; and the said tract is hereby warranted free and clear of all debts, liens, mortgages, or incumbrances whatsoever, as it accordingly appears by a certificate of the register of mortgages for this State, dated this day, and exhibited to these parties, at and before signing: To have and to hold the said tract of land, with all the rights, privileges, commodities and appurtenances thereunto belonging, or in any wise appertaining, unto the said Jacob Brandegee, his heirs and assigns, to his and their only proper use and behoof forever. And the said Josias C. Kerr and Maria Manette Laveau Trudeau, his wife, for themselves and their heirs, the said tract of land, with the appurtenances aforesaid, unto the said Jacob Brandegee, his heirs and assigns, shall and will warrant and forever defend against all and every person and persons whomsoever, claim and claims whatsoever, by these presents. Thus done and passed, at the city of New Orleans aforesaid, this thirty-first day of August, in the year one thousand eight hundred and twenty-one, in the presence of Lewis M. Taney and Hugh K. Gordon, witnesses, who hereunto sign their names with the parties and me, notary, this act having been first read to them and approved.

(Signed) MANETTE T. KERR,
JOSIAS E. KERR,
J. BRANDEGEE,
HU. K. GORDON,
L. M. TANEY,
G. R. STRINGER, *Not. Pub.*

I certify the foregoing to be a true copy of the original extant in my current register. In faith whereof I grant these presents, at [SEAL.] New Orleans aforesaid, this 20th day of December, 1821.

(Signed) G. R. STRINGER, *Not. Pub.*

STATE OF LOUISIANA, *parish of Feliciana.*

I certify that the within deed was truly recorded in notarial record book, pages 457–'58, this 24th January, 1822.

(Signed) H. W. HILL, *Parish Judge.*

Judgment.

May term, 1849.

Friday, June 8th, 1849.

And the court being duly advised in the premises, and having considered the case thereupon, rendered its opinion and decree as follows:

The petitioners claim a tract of land, containing five hundred superficial arpents, situated in the district of New Feliciana, about two miles and a half distant from the river Mississippi, bounded on the north by lands formerly owned by Don Joseph Molere; on the south by lands of Don Vincente Pintado; on the east by lands of Jeremiah Kelsey; and on the west by the banks of the rivulet Arrena or Sand creek; the boundaries being parallel and running north 89 degrees east, without allowing for the variation of the compass, which variation is 8° 15′ towards northeast.

The petitioners derive their title to the land claimed by a regular conveyance from Dona Maria Manetta Laveau Trudeau, to whom it was granted by Don Manuel Gayoso de Lemos, governor general of the provinces of Louisiana and West Florida, on the 12th December, 1798. The location and survey of the land had previously been made by Don Carlos Trudeau, the royal surveyor.

The title is a perfect one, and, indeed, its validity has not been questioned in argument. The court is therefore of the opinion that the plaintiffs are entitled to the relief granted by the act of Congress, approved on the 17th day of June, 1844, entitled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansas, and Louisiana, and in those parts of the States of Mississippi and Alabama south of the 31st degree of north latitude, and between the Mississippi and Perdido rivers," and the act approved on the 26th of May, 1824, to which it refers, entitled "An act enabling the claimants to lands within the limits of the State of Missouri and territory of Arkansas to institute proceedings to try the validity of their claims.

It is therefore ordered, adjudged, and decreed, that the grant made by the Spanish government to said Dona Maria Manetta Laveau Trudeau, as aforesaid, is valid against the United States, and that the land described in the said grant and survey thereof, of record herein as part of the exhibits, containing five hundred superficial arpents, according to the metes and bounds as described in said grant and survey, belongs to the petitioners holding under the original grantee, a resident and native of the province of Louisiana.

And whereas it is ascertained that a great part of said land is now held by titles emanating from the United States, it is further ordered, adjudged, and decreed, that for all the land within said limits so held, which has been sold or otherwise disposed of by the United States, the petitioners shall be, and they are hereby, authorized to enter, in any land office of the United States, in the State of Louisiana, a like quantity of public land elsewhere, in conformity with the provisions of the 11th section of the aforesaid act of Congress, approved on the 26th May, 1824.

Judgment rendered 8th June, 1849; judgment signed 9th June, 1849.

(Signed) THEO. H. McCALEB, [L. S.]
U. S. Judge.

And afterwards, at the same term, to wit, on the 9th day of June, A. D. 1849, the following motion and order of appeal was entered of record in this case, on the minutes of said court:

Before the honorable Theo. H. McCaleb, on this Saturday, the ninth day of June, 1849:

On motion of Logan Hunton, esq., attorney of the United States, for the eastern district of Louisiana, and of Thomas J. Durant, esq., on the same side, and on giving the court to understand and be informed that they verily believe that there is error to the prejudice of the United States in a certain judgment lately rendered by this honorable court, at this term, against the United States, in the matter of Jacob Brandegee vs. The United States, revived in favor of his said Jacob Brandegee's widow and heirs, and being number forty-three on the docket of this court, and that they desire to appeal from said judgment:

It is thereupon ordered by the court, that an appeal from said judgment be now allowed in favor of the United States, returnable into the Supreme Court of the United States at the next term thereof after the date of this order.

Finis.

UNITED STATES OF AMERICA, *Eastern district of Louisiana.*

I, Needler R. Jennings, clerk of the district court of the United States, sitting at New Orleans, in and for said district, do hereby certify, that the foregoing twenty-one folios, (including therein plan on folio 11,) and (22d) 13 lines, contain and form a true, faithful, correct, and complete transcript of all the proceedings, process, pleadings, documents, and other matters on file and of record in a certain cause in chancery, wherein, on bill of revivor, the widow and heirs of Jacob Brandegee are plaintiffs, and the United States of America are defendants, No. 43 of the land docket of said court.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of New Orleans, this eighteenth [SEAL.] day of September, one thousand eight hundred and forty-nine, and the 74th year of American independence.

N. R. JENNINGS,
Clerk U. S. district court, eastern dist., Louisiana.

I, Theodore H. McCaleb, judge of the district court of the United States, for the eastern district of Louisiana, do certify, that N. R. Jennings, who subscribed the above certificate, was, at the time of signing the same, and is now, the duly appointed and legally authorized clerk of said court; that full faith and credit are due and ought to be given to all his attestations as such clerk, and that his above certificate is in due form of law.

Witness my hand and seal at New Orleans, this twenty-fifth day of September, A. D. 1849.

THEO. H. McCALEB. [SEAL.]

THE UNITED STATES OF AMERICA:

To Mrs. Jeannette Caroline Chastant, widow in community of Jacob Brandegee, dec'd, and natural tutrix of her minor children, viz., Odile Madeline, Camillus John, Stephanie, Marie Henriette Brandegee, and of Caroline Clotilde Brandegee, wife of Henry Lloyd, beneficiary heirs and legal representatives of said Jacob Brandegee, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the first Monday of December next, pursuant to an order of appeal granted on the ninth day of June, 1849, by the district court of the United States, in and for the eastern district of Louisiana, in a certain cause in chancery, (under the acts approved May 26th, 1824, and June 17th, 1844,) entitled, (No. 43,) Jacob Brandegee('s heirs) vs. the United States, wherein the said United States of America are appellants, and you are appellees, to show cause, if any there be, why the judgment rendered against the appellants, as in the said order of appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness hereto my hand, and the seal of the said court, at the city of New Orleans, this twenty-fourth day of September, [SEAL.] A. D. 1849.

THEO. H. McCALEB, [SEAL.]
Judge of U. S. district court, eastern district of Louisiana.

C. ROSELIUS, *Attorney.*

Attest: ROBT. M. LUSHER,
D'y clerk.

Marshal's return.

Rec'd Oct. 9, 1849, and on the 16th October, 1849, served a copy of the within citation of appeal on C. Roselius, esq., attorney for plaintiffs' (heirs,) by handing the same to him in person at New Orleans, and who at the time accepted service for the pl'ffs.

Returned 18th Oct., 1849.

N. W. BUTLER,
D'y U. S. marshal, east. dist., La.

Return registered Oct. 18, 1849.

ROBT. M. LUSHER, *d'y clerk.*